

retroactive to May 18, 1999.⁵ Both fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

These fees are being implemented mid-month because both of these fees are for new options classes, which have not traded before. As a result, changes had to be made to the billing program to account for these new classes in the middle of the month.⁶

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)⁷ of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)⁸ and paragraph (f)(2) of Rule 19b-4 thereunder.⁹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule

⁵ At its May 20, 1999, meeting, the Committee approved these fees retroactive to the respective dates the fees began. Although the fees are planned to be calculated for activity that occurred as of the dates referred to above, the actual bills for payment will be sent in June.

⁶ Through miscommunication, certain Exchange Staff believed these fees could be instituted in mid-month and presented in a filing at the end of the month since the actual charges would not be invoiced until that point. However, CBOE has instituted procedures to ensure that a filing be done prior to the fees being implemented, regardless of whether the fees are being implemented mid-month or at the beginning of the next month. Telephone conversation between Michael Walinskas, Associate Director, Division of Market Regulation, Commission, and Timothy Thompson, Director, Regulatory Affairs, CBOE, on May 27, 1999.

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁰

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-25 and should be submitted by August 18, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,
Secretary.

[FR Doc. 99-19264 Filed 7-27-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41640; File No. SR-DTC-99-18]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding a Year 2000 Compliance Acknowledgment

July 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 6, 1999, The Depository Trust Company ("DTC") filed with the

¹⁰ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, DTC will require that its participants who provide settlement information solely through DTC's proprietary Participant Terminal System (PTS) submit to DTC, no later than September 15, 1999, a Year 2000 compliance acknowledgment demonstrating their operational capability.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 1, 2000, we will experience the first century change since the advent of computers and related technology. Because certain computer programs may misinterpret the Year 2000 as 1900, the U.S. financial industry has undertaken efforts to prepare for the impending date change. As the new millennium approaches, DTC must assess its own Year 2000 readiness, as well as seek comfort as to the Year 2000 readiness of all its participants.

Under the proposed rule change, DTC is setting forth a policy statement with respect to DTC's Rule 2. That rule provides the standards and obligations that entities must meet to become DTC participants and to retain their status as participants. Pursuant to Rule 2, a participant must furnish to DTC, upon DTC's request, information that

² The Commission has modified the text of the summaries prepared by DTC.

demonstrates the participant has satisfactory operational capability.

DTC's Rule 2 has been interpreted to require participants who provide settlement input to DTC through a computer to computer link to conduct a Year 2000 validation test with DTC at some point during the first nine months of 1999.³ The validation test requires participants to process a series of scripted transactions and to balance with DTC's position and settlement statements. Each participant is being required to provide DTC with a standard testing acknowledgment signed by a senior internal auditor stating that it has balanced to the position and settlement statements and had done so in a Year 2000 compliance environment.⁴ The validation test is designed to test the Year 2000 compliance of the computer to computer interface between DTC and the participant. The Year 2000 testing acknowledgment confirms the successful completion of the validation test and provides some comfort as to the ability of the participant to transact business with DTC in a Year 2000 compliant manner.

Participants who provide settlement information solely through DTC's PTS⁵ are not required to perform validation testing as DTC has already tested PTS and found it to be Year 2000 compliant. Although DTC is comfortable that the interface used to communicate with PTS-only participants is Year 2000 compliant, under the proposed rule filing these participants will be required to submit to DTC, no later than September 15, 1999, a Year 2000 compliance acknowledgement which relates to their organization as a whole. The Year 2000 compliance acknowledgement is identical to that required from participants who are subject to the validation testing requirement except that the language regarding testing has been deleted.

In DTC's view a participant's failure to provide DTC with a standard Year 2000 compliance acknowledgement will constitute a failure to demonstrate the sufficient operational capability required by DTC's Rule 2. DTC recognizes the importance in obtaining

assurances that participants are individually prepared to operate normally before, during, and after the first few days of Year 2000. DTC believes that the industry as a whole has an interest in assuring itself that each participant (and/or participant's processing agent) can interact with and complete the depository's settlement process throughout the day in terms of both the participant's connectivity to the depository and also its internal processing systems and capabilities. Considering the potential for the widespread and detrimental consequences of a participant's failure to be adequately prepared for the impending date change, DTC believes that its rules can be reasonably interpreted as requiring an assurance that the participant is prepared for the Year 2000 as set forth in the Year 2000 compliance acknowledgement.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because the Year 2000 compliance acknowledgement will help ensure that DTC participants have sufficient operational capability.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The language contained in the Year 2000 testing acknowledgment, relating to DTC's validation testing requirement, was reviewed without comment by the Securities Industry Association's Legal and Compliance subcommittee, as well as the New York Clearing House Year 2000 Committee. The Year 2000 compliance acknowledgement is identical to the Year 2000 testing acknowledgment except that the language regarding testing has been deleted.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act⁶ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the

proposed rule change is consistent with this obligation because the Year 2000 compliance acknowledgement should allow DTC to address any potential problems associated with the participants' Year 2000 readiness. As a result, DTC should be able to continue to provide for the prompt and accurate clearance and settlement of securities transactions before, on, and after Year 2000 without interruption.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice should allow DTC to implement its requirement of a Year 2000 compliance acknowledgement in a timely manner.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR-DTC-99-18 and should be submitted by August 18, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-DTC-99-18) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-19263 Filed 7-27-99; 8:45 am]

BILLING CODE 8010-01-M

³ Securities Exchange Act Release No. 40696 (November 20, 1998), 63 FR 65829 [File No. SR-DTC-98-18].

⁴ If a participant does not have an internal auditor, the testing acknowledgment may be executed by a senior compliance officer or other equivalent officer.

⁵ References to PTS also include PTS Jr. PTS Jr. is a dial-up system (i.e., utilizing a PC, modem, and non-dedicated phone line) that offers all of the functionality (at reduced speed) of a regular, dedicated PTS terminal. PTS Jr. is designed for low-volume users or those participants who choose not to utilize a more costly, dedicated PTS terminal.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).